

Senate Bill 208

By: Senators Harrell of the 40th, Harbison of the 15th, Merritt of the 9th, Rahman of the 5th,
Sims of the 12th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated,
2 relating to the powers and duties of the Department of Behavioral Health and Developmental
3 Disabilities regarding the governing and regulation of mental health, so as to require the
4 Department of Behavioral Health and Developmental Disabilities to provide fully funded
5 services over a five-year period to individuals with intellectual/developmental disabilities
6 who are on the New Options Waiver (NOW) or Comprehensive Supports Waiver (COMP)
7 waiting list; to prohibit the department from capping or limiting community living support
8 services under the COMP waiver; to provide for applicability; to provide for related matters;
9 to provide for legislative findings; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds:

13 (1) In 2017, the Residential Information System Project reported that there were 241,461
14 Georgians living with a developmental disability related diagnosis, or 2.3 percent of the
15 overall state population, and only 7.2 percent, or 17,389, of the state's total developmental
16 disability population, were served by a state agency;

- 17 (2) The Governor's Office of Planning and Budget projects a population increase of
18 1,458,951 from 2020 to 2030. Based on population trends alone, it is estimated that an
19 additional 33,500 Georgians will be in need of developmental disability services in the
20 next decade;
- 21 (3) The average cost of services for a Georgian with an intellectual or developmental
22 disability to engage in the community and to minimize social isolation is too excessive
23 for a typical Georgia family;
- 24 (4) The U.S. Supreme Court's 1999 landmark decision in *Olmstead v. L.C. (Olmstead)*
25 found the unjustified segregation of people with disabilities is a form of unlawful
26 discrimination under the Americans with Disabilities Act (ADA);
- 27 (5) 2021 marks the twenty-first anniversary of the *Olmstead* Supreme Court decision;
- 28 (6) This state remains committed to providing people with opportunities for real homes,
29 jobs, learning experiences, recreation, and real choice in their lives;
- 30 (7) The NOW Waiver increases the independence and quality of life for persons with
31 developmental disabilities, provides support for caretaking families, increases the
32 flexibility of service planning and delivery to meet an individual's needs, and helps to
33 avert the need for more intensive services. The COMP Waiver provides 24 hour care and
34 comprehensive and intensive services to live in the community;
- 35 (8) Georgia's provision of services and support for people with disabilities and their
36 families has changed to focus less on institutional care and more toward providing home
37 and community based services that allow people with developmental disabilities, physical
38 disabilities, traumatic brain injury, and mental illness to receive the support necessary to
39 live independent and productive lives in the community;
- 40 (9) It is desirable to provide home and community based services for some individuals
41 with disabilities and to avoid the use of institutions;
- 42 (10) Helping people remain with their current communities makes more sense
43 economically than paying expensive institutional costs later;

44 (11) The quality of life and community engagement for individuals with developmental
45 disabilities dramatically decreases after they are dropped from services provided by K-12
46 education institutions;

47 (12) According to the Department of Behavioral Health and Developmental Disabilities
48 2017 multi-year plan, if Georgia funded additional waivers, Georgia will have the
49 comprehensive system of supports and services in ten years that enable all people to live,
50 work, play, and worship in their communities of choice, and allow Georgians to age in
51 place with their families, friends, and neighbors;

52 (13) There are almost 7,000 people with developmental disabilities, physical disabilities,
53 or traumatic brain injuries on the Home and Community-Based Services waiver
54 waiting/planning lists; and

55 (14) This Act should include considerations of funds necessary to supply provider rates
56 that meet the realistic costs of providing high quality services and increase the capacity
57 of community based providers.

58 **SECTION 2.**

59 Article 2 of Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to the
60 powers and duties of the Department of Behavioral Health and Developmental Disabilities
61 regarding the governing and regulation of mental health, is amended by adding a new Code
62 section to read as follows:

63 "37-1-30.

64 (a) Subject to appropriations, the department shall, over a five-year time period, provide
65 fully funded services for all qualified individuals with intellectual/developmental
66 disabilities who are on the New Options Waiver (NOW) or Comprehensive Supports
67 Waiver (COMP) waiting list. Such fully funded services include supports to individuals
68 with intellectual/developmental disabilities who do not need 24-hour care and who live
69 with family members or in their own home and for individuals who need a full range of

70 out-of-home services or intensive in-home services for those who are transitioning out of
71 institutions into community living.

72 (b)(1) The department shall not set any maximum daily authorization or otherwise cap
73 or limit the number of hours or days provided for community living support services
74 provided under the COMP waiver to less than 24 hours per day, seven days per week.

75 (2) This subsection shall apply to COMP waivers approved or renewed on and after July
76 1, 2021."

77 **SECTION 3.**

78 All laws and parts of laws in conflict with this Act are repealed.